

Hogan & Hartson Trying to Block Claims Report

By John F. Berry
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Hogan & Hartson, a prestigious Washington law firm, is seeking to block publication of a court-ordered report that is highly critical of the firm's dealings with a former client, a corporation once controlled by the famous fugitive, Robert L. Vesco.

Arguing that the report's publication "will directly and substantially injure Hogan & Hartson's principal asset, its reputation for integrity," the firm sought a temporary restraining order on Tuesday in New York City federal district court.

The basic contention made by Ho-

gan & Hartson in its pleadings is that the charges in the report are not true and that the firm was not given an opportunity to confront those making the charges.

In seeking to block publication of the 767-page report, Hogan & Hartson has revealed some of the very criticisms it is seeking to suppress.

In one court document, the law firm says the report "contains findings of fact, conclusions and recommendations which purport to establish that Hogan & Hartson has deceived . . . its client, has represented interests conflicting with those of its client, and is guilty of malpractice."

In another document, Hogan & Hartson complains that publication of the report "unfairly and unjustly stigmatizes Hogan & Hartson as violators of the federal securities laws and as attorneys who breached their professional duties."

The firm was denied its request for a temporary restraining order, but it obtained a delay in publication of the report until a hearing Tuesday by three appeals court judges.

The report grew out of a 1972 civil fraud suit by the Securities and Exchange Commission that named, among others, Vesco and a New Jersey electronics firm he controlled

called International Controls Corp. (ICC).

Vesco used ICC in 1970 to take control of giant Investors Overseas Services, Ltd., then a \$2.3 billion Swiss-based financial conglomerate that was the brainchild of Bernard Cornfeld. Vesco eventually looted IOS of about \$500 million and made his way to Costa Rica, where he now resides beyond the reach of U.S. laws.

Hogan & Hartson was counsel to ICC from 1968 until March, 1973, when it resigned.

In March, 1973, as a result of a settlement by ICC of the SEC suit, Dis-

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trict Judge Charles Stewart appointed a special counsel, David Butowsky, to investigate claims against ICC and ICC claims against others. He was ordered to report his findings to the SEC and the court.

Now, some 4½ years later, Hogan & Hartson has sued Butowsky and petitioned the court because, in reviewing the report, the firm concluded Butowsky "misstates facts, makes assumptions unsupported by fact, disregards facts . . . and reaches conclusions unsupported by reason or authority."

In the hearing on Tuesday before Stewart, Hogan & Hartson's attorneys argued that since Butowsky was appointed by the court, his report "is sent out to the world at large and published under the imprimatur of this court."

Especially troubling to Hogan & Hartson was the press coverage the

report would get because of Vesco's involvement. "You mention (Vesco and ICC) and every newspaperman in the United States comes to attention," an attorney for the firm said at the Tuesday hearing. "It goes right on TV . . . it absolutely guarantees that this will receive the widest publicity."

"But what gives this thing the real wallop," the attorney added, "is that it comes out under color of authority."

Butowsky, who is a partner in a New York law firm, once was an attorney with the SEC. Judge Stewart, who described Butowsky's 4½ years of untangling the Vesco affair as "an enormous effort," admitted in the hearing that he had not read the whole report yet.

But he said: "I am prepared to assume . . . that if the report is published with things in it that I have seen . . . there will be some unfavorable publicity. I don't know that it is going to be as bad as you make it out to be."

The attorney said Hogan & Hartson was not concerned that lawsuits might result from the revelations in the report. "We have no complaint about that," he said. "That is part of the game."

In its complaint, Hogan & Hartson said that Butowsky suggested a deal might be struck when he presented the firm with a rough draft of the study in September, proposing that the final report could be written two ways.

One way "would portray plaintiff Hogan & Hartson as corporate counsel representing a difficult client. The second way would be critical of Hogan & Hartson," the firm said.

The firm said Butowsky said the report could be written the first way if "Hogan & Hartson agreed to a monetary settlement of claims against it by ICC."

The firm said it refused to settle and the report was written the second way.

Judge Stewart saw nothing wrong in this, stating: "If there were a settlement, it would seem apparent that there would be no need or reason to spell out in the report the basis for any claims which had been disposed of."

Stewart then denied Hogan & Hartson's application for an injunction, saying "the harm resulting to ICC, its stockholders . . . the SEC in its obligation to the public if the injunctive relief sought is granted far outweigh any possible harm to plaintiff if the relief sought is granted."

Special correspondent John Kennedy contributed to this report.